

DEPARTMENT OF ENERGY
FY 1998 CONGRESSIONAL BUDGET REQUEST
BOARD OF CONTRACT APPEALS
(Tabular dollars in thousands, Narrative in whole dollars)

PROGRAM MISSION

The Board of Contract Appeals is an administrative tribunal, responsible to the Secretary and under law for the fair and impartial trial and adjudication of a variety of disputes. With few exceptions, these disputes are related to the Department's acquisition and financial assistance programs. The Board exercises an array of statutory and delegated authorities. Board decisions constitute final agency decisions and are not subject to administrative review or modification. The Board also serves as the principal source of neutrals for acquisition and financial assistance related mediation and other alternative dispute resolution procedures.

The GOAL of the Board of Contract Appeals is to:

Provide to the fullest extent practicable, informal, expeditious, and inexpensive resolution of contract and financial assistance related disputes pursuant to the Contract Disputes Act of 1978, the Alternative Disputes Resolution Act and other authority.

The OBJECTIVES related to the Board's goals are:

- o To contribute to mutually beneficial relationships between the Department and its contractors and financial assistance recipients.
- o Hear and decide disputes or resolve them through alternative means, vindicating the Department's, the contractor's or recipient's contractual expectations in an expeditious, economical, fair, and impartial manner.
- o To advance the implementation of alternative disputes resolution.
- o Contract disputes resolution without trials and decisions saves substantial public and private resources in appropriate cases.
- o Conserve DOE funds that would otherwise be expended for expensive private neutral services.

PERFORMANCE MEASURES:

The Board's performance measures are derived from the Contract Disputes Act which requires the Board to provide to the fullest extent practicable, informal, expeditious, and inexpensive resolution of disputes. To that end, at the outset of most cases the Board, after consultation with the parties, issues a Comprehensive Scheduling Order which sets out time limits to be met by the parties for various stages of the case.

These limits are designed to advance the speed and control the costs of litigating the case as well as to enhance the prospects of settlement, all without compromising fairness. Scheduling orders are carefully monitored to ensure fairness and compliance.

SIGNIFICANT ACCOMPLISHMENTS AND PROGRAM SHIFTS:

- Shifted program direction toward alternative forms of dispute resolution by fully integrating alternative dispute resolution into Board procedures.
- Developed wide range of model protocols for alternative dispute resolution proceedings, thus facilitating agreement.
- Successfully and efficiently mediated significant cases.
- Entered into agreements with Deputy Assistant Secretary for Procurement and Assistance Management to:
 - Conduct fact-finding proceedings for disputes of fact in suspension and debarment and make final findings of fact.
 - Provide mediation, facilitation and evaluation services for protests against award of Department's contracts.
 - Provide neutral services for disputes between certain cost-reimbursement contractors and their subcontractors when cost-effective and advantageous.

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I. Mission Supporting Goals/Ongoing Responsibilities:

The goal of the Board of Contract Appeals is to provide to the fullest extent practicable, informal, expeditious and inexpensive resolution of contract and financial assistance related disputes pursuant to the Contract Disputes Act of 1978, the Alternative Disputes Resolution Act and other authority.

Program Direction has been grouped into four categories:

Salaries and Benefits provide funding for full-time permanent and other than full-time permanent employees in the following classes: salary and wages, overtime pay, cash incentive awards, lump sum leave payments, buy-out compensation, and payments to funds for the benefit of employees.

Travel funding for staff to conduct trials, typically at courthouses and other neutral sites and for employee training travel.

There are no support services.

Other Related Expenses include funding for employee training and developments (\$1K) and funding to support the Working Capital Fund for rental space, telecommunications, utilities and miscellaneous charges, printing and reproduction, other services (e.g., tuition, experts, neutrals, etc.), operating and maintenance of equipment, purchase of goods and services from government accounts, supplies and materials, and equipment. Common administrative services financed through the Working Capital Fund are included in this category.

II. <u>Funding Table:</u>	FY 1996 Current <u>Appropriation</u>	FY 1997 Original <u>Appropriation</u>	FY 1997 <u>Adjustments</u>	FY 1997 Current <u>Appropriation</u>	FY 1998 Budget <u>Request</u>
<u>Program Activity</u>					
Salaries and Benefits	\$ 557	\$ 496	-0-	\$ 496	\$ 520
Travel	6	6	-0-	6	6
Other Related Expenses	1	100	-0-	100	200
 Total	 \$ 564	 \$ 602	 -0-	 \$ 602	 \$ 726
Full-time Equivalents	6	5	-0-	5	5

III. Performance Summary:

FY 1996/1997 Measurable Performance Activities:

- o Complete rulemaking initiated in FY 1995 describing Board organization and authorities including alternative disputes resolution functions.
- o Implement new debarment fact-finding authority including rulemaking for rules of procedure.
- o As a cost-saving measure, expand mediation services to additional types of disputes such as disputes between cost-reimbursable contractors and their subcontractors.
- o Expand informational outreach services.

FY 1998 Measurable Performance Activities:

- o Optimize balance between thoroughness of process, time and costs.
- o Assess benefits of expanded mediation of disputes at subcontract level in cost-reimbursement contracts.

IV. Explanation of Funding Changes FY 1997 to FY 1998:

The increase of \$24,000 in Personnel Compensation and Benefits reflects the pay raise.

The other related expenses reflect the full value of working capital fund expenses for the Board. The Working Capital Funds and other expenses were budgeted in the Office of Human Resources and Administration in FY 1997. The Working Capital Funds and other expenses amounts show no increase from FY 1997 on a comparable basis.

BOARD OF CONTRACT APPEALS				FY 1997/FY 1998
<u>Other Related Expenses</u>	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>	<u>Change</u>
Training	\$ 1,000	\$ 1,000	\$ 1,000	\$ 0
Working Capital Fund	5,000	99,000	184,000	85,000
Other	0	0	15,000	15,000
Total Other Related Expenses	\$ 6,000	\$ 100,000	\$ 200,000	\$ 100,000